IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

DISTRICT:

CIVIL APPLICATION NO. 307 OF 2006

IN

SECOND APPEAL (St.) NO. 2168 OF 2003

Office Notes,Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Ms.Archana i/by Mr. T.S.Ingale for the Applicants.

None for the Respondent.

CORAM: S.B.DESHMUKH, J.

DATE : 5TH OCTOBER, 2006

P.C.:

Heard learned Counsel for the applicants. None appears for the respondent, despite service.

2. By this application, the applicants are seeking condonation of about 88 days delay, occurred in filing the second appeal in this Court. The cause for delay is mentioned in paragraph no.4 of the civil application. It is stated that the proceedings, in the courts below,

were looked after by the deceased mother of the applicants. The applicants are rustic villagers and are not having knowledge regarding legal procedure to be adopted. They were under the bonafide belief that since the appeal of defendant no.1 is dismissed, they will get possession of the suit property. According to them, subsequently, they learnt that the relief for partition and separate possession has not been granted as prayed for. The applicants are not residing in the same village. Therefore, some time was required for them for taking decision for filing of the second appeal in this Court.

3. None appears for the respondent, as noted above. There is no reply filed on behalf of the respondent, controverting the averments made in the civil application. According to the learned Counsel for the applicant, explanation tendered is just and sufficient.

4. According to me, there is no malafide alleged on behalf of the respondent against the applicants. I am satisfied that delay is properly explained and bonafide.

5. In the circumstances, delay of about 88 days occurred in filing the present second appeal in this court is condoned. The civil application, accordingly, is allowed and disposed of.

Sd/-

(S.B.DESHMUKH, J.)